In the High Court of Judicature at Madras

Dated: 22.11.2004

Coram

The Honorable Mr.Justice V.KANAGARAJ

Crl.R.C.No.1706 of 2004

Shanmugavel Petitioner

v

1. Tmt. Radha Swaminathan

2. Mr.S.P.Saminathan

3. Selvi S.Sukirtha

4. Mr. S.Murugesan

5. State
rep. by the Inspector of Police
District Crime Branch,
Erode. Respondents

Prayer: Revision filed under Sections 397 and 401 of Criminal Procedure Code for the prayer stated therein.

For petitioner : Mr.N. Nithianandam

For respondents : Mr.K.Sankarakrishnan-RR1 to 4.
Mr.V.Jayaprakash Narayanan
Govt.Advocate(crl.Side)-R5

O R D E R

The above revision case is filed praying to set aside the order dated 13.8.2004 passed by the Judicial Magistrate, Sathyamangalam in Crime No.7 of 2003 on the file of the District Crime Branch, Erode.

2. Today, when the above matter was taken up for consideration, on a perusal of the materials placed on record, it comes to be seen that the complainant availed a loan of Rs.29 lakhs from the accused on 2.3.2001; that the said loan amount accumulated to Rs.36 lakhs with interest till June 2002; that to discharge the said liability, the

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complainant entered in to an agreement with the accused by exchanging their route buses; that in the meantime, the accused filed a writ petition in W.P.No.38827 of 2002 and obtained an interim order, pursuant to which, the complainant was able to ply the bus on the route; that on 11.4.2003, the writ petition came to be dismissed on the ground that the bus does not possess a valid permit and therefore, the complainant was not able to ply the bus once and for all; that as a result of this the complainant incurred wrongful loss through the exchange of a defective, invalid and unrenewed permit for the bus plying in route S8; that the complainant has lodged a complaint before the fifth respondent and a case came to be registered against the accused for an offence under Section 420 I.P.C.; that on completion of the investigation, a final report was filed before the Judicial Magistrate, Sathyamangalam; that the said Magistrate dropped all further action in this case on the ground that no material is available to prosecute as requested in the First Information Report; that having become aggrieved, the petitioner/complainant has come forward to file the above criminal revision case seeking the relief extracted supra.

3. Learned counsel for the petitioner strenuously argued to the effect that since, notice regarding dropping of further action was not served on the petitioner, he was not able to know as to what had happened to his complaint that was registered and investigated into by the fifth respondent police and therefore, seeking such reliefs he has come forward to file the criminal revision case.

4. On the other hand, learned counsel appearing on behalf of the respondents would come forward to submit that since the petitioner was not secured by the prosecuting authorities, a notice by registered post was sent, but the fate of the notice is not known viz., whether the petitioner has received it or not and the learned counsel appearing for the respondents are also not in a position to say anything about the same.

5. On consideration of the facts pleaded and upon hearing the learned counsel for both, this Court is of the view to issue a direction to the trial Court to accept the private complaint or a petition in the form of objection to the case referred by the police and to process the same in the manner required under law so as to deliver the judgment on merits and in accordance with law, provided, the said complaint is filed on the part of the petitioner within 30 days from the date on which this order copy is received by the Magistrate and the same is ordered accordingly.

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In result, subject to the above directions, the above criminal revision case is disposed of.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

kvsg

To

1) The Inspector of Police
   District Crime Branch,
   Erode

2) The Public Prosecutor
   High Court,
   Madras

+1cc to Mr.N. Nithianandam, Advocate Sr 50784

+1cc to Mr.K.Sankarakrishnan, Advocate Sr 50306

JSK (CO)
km/19.1.

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